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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,567	05/25/2000	Marilee G. Berry	99PS014/KE	6188

7590 10/31/2006

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Attention Kyle Eppele
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EXAMINER	
HOYE, MICHAEL W	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/578,567	**Applicant(s)** BERRY, MARILEE G.	
	Examiner Michael W. Hoye	**Art Unit** 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

ADVISORY ACTION

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding independent claim 1, the Applicant argues on page 5 that, "Neither Kondo nor Reed teaches or suggests claim 1 because neither reference teaches or suggests a method comprising "retrieving a system configuration having a plurality of variable configuration data points, wherein the plurality of variable configuration data points are selectable from the following: number of media file servers, number of video cassette players, and number of RF channels.""

In response to Applicant's argument, on pages 5-6, that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Kondo et al reference discloses a method of indicating program selections in an aircraft passenger entertainment system including a seat controller unit receiving programming signals over a plurality of radio frequency (RF) channels and generating display signals from the programming signals, wherein the program selections are made through a passenger control unit (see Abstract, col. 1, lines 8-11 and cols. 4-6). As previously stated, Kondo et al discloses that it is possible to easily change the number of channels for the video signals by changing the compression rate (col. 4, lines 31-44), also, Kondo discloses that the number of analog video signal providers and the number of digital video signal providers may be

changed (col. 5, lines 20-25), and in col. 6, lines 36-42, Kondo further discloses that it is accordingly possible to increase the number of [RF] channels easily without any modification of the circuit. The Reed et al patent also discloses an entertainment and passenger service system for use in aircraft and other passenger vehicles, which is in the same art as the Kondo et al patent, and Reed et al further teaches retrieving system configuration having a plurality of variable configuration points including media file servers (entertainment servers ("ES") 24, see col. 5, lines 56-65) and video cassette recorders (video tape recorders ("VTR") 54, see col. 6, lines 26-55, also see col. 14, lines 37-47; col. 19, lines 21-31; col. 21, lines 57-63; col. 23, lines 21-47 and col. 25, lines 52-63 for additional information related to retrieving system configuration and configuration data points). Therefore, it would have been obvious to one of ordinary skill in the art to have combined the teachings of Kondo et al with Reed et al for the advantage of allowing a user to configure a number of media file servers as well as a number of video cassette players (VCRs) as desired in an aircraft/passenger entertainment system. One of ordinary skill in the art would have been led to make such a modification since it is well known to those of ordinary skill in the art of video distribution to be able to configure the number of media file servers, VCRs, and RF channels as desired in an interactive video distribution system such as in a cable or satellite TV headend, and/or a passenger/aircraft entertainment system.

The Applicant also argues on pages 6-7 that, "Kondo discloses a fixed number of video signal providers, not a *variable configuration* as taught in the present claim. (Specification, p. 8.) Although, as stated by the Examiner, the Kondo reference discloses the ability to change the number of channels for the digital video signals by changing the compression rate of the signal (see col. 4, lines 41-44), the system in Kondo is configured to be limited to a fixed arrangement

of 21 signal providers (see col. 5, lines 20-25), not a variable configuration as in the present claim. The number of signal providers, as taught by Kondo, may only be altered by reducing the number of digital video signals and increasing the number of analog signal providers."

In response the Examiner respectfully disagrees with the Applicant because the Kondo reference clearly teaches a "variable configuration", where Kondo et al discloses that it is possible to easily **change the number of [RF] channels** for the video signals by changing the compression rate (col. 4, lines 41-44), also, Kondo discloses that the number of analog video signal providers and the number of digital video signal providers may be changed (col. 5, lines 20-25), and in col. 6, lines 36-51, Kondo further discloses that, "It is accordingly possible to increase the number of [RF] channels easily without any modification of the circuit...By changing the compression rate, it is possible to change the number of the [RF] channels for video images...Since the digital signals a1 to a4 are compressed to 1.5 Mbps, this embodiment can provide four times (=6 Mbps/1.5 Mbps) the number of channels." Kondo further states in col. 6, lines 45-49 that, "Although the above embodiment has digital video signal providers 10A to 10T, an analog video signal provider 11, and a digital audio signal provider 12, any combination of these, based on budget or circumstances, is possible." In addition to, Kondo also states in col. 4, lines 34-41 that, "If the video signal to be recorded on the disc 30A is compressed into 1.0 Mbps, the number n of channels included in the signal c1 is obtained from the equation, n=6 Mbps/1.0 Mbps=6. In this case, the digital video signal providers 10A to 10T can provide six channels of video signals, using six discs 30A to 30F, thereby providing a total of 120 (=20.times.6) channels of video signals." Therefore, Kondo clearly teaches "a plurality of variable configuration data points, including the number of media file servers, number of RF channels, etc.

The Applicant argues on page 7 that, "Kondo does not teach or suggest the "retrieving a system configuration having a plurality of variable configuration data points" limitation, as set out in combination with the other steps of independent claim 1, and thus does not anticipate claim 1."

In response the Examiner respectfully disagrees with the Applicant because as stated above Kondo clearly discloses the claimed, "retrieving a system configuration having a plurality of variable configuration data points." In addition to, the Examiner previously provided the Reed reference to provide additional teaching or support for both "retrieving" and "selecting" a plurality of various configuration data points.

The Applicant further agues on pages 7-8 that, "the present limitation of claim 1 requires that the system be configured to "*retriev[e]* a system configuration having a plurality of *variable* configuration data points, wherein the plurality of variable configuration data points arc selectable from the following: number of media file servers, number of video cassette players, and number of RF channels." The system in Reed does not teach or suggest "retrieving a system configuration" as in the present application because the Reed reference does not teach or suggest "stor[ing] data on the configuration of the aircraft, including the number of media file servers, number of video cassette players, and number of RF channels, and others." (Specification, p. 6.)."

In response the Examiner respectfully disagrees with the Applicant because, as previously stated, Reed et al teaches retrieving system configuration having a plurality of variable configuration points including media file servers (entertainment servers ("ES") 24, see col. 5, lines 56-65) and video cassette recorders (video tape recorders ("VTR") 54, see col. 6,

lines 26-55, also see col. 14, lines 23-47; col. 19, lines 21-31; col. 21, lines 57-63; col. 23, lines 21-47 and col. 25, lines 52-63 for additional information related to retrieving system configuration and configuration data points), where the configuration of the system may be accessed or retrieved, selections or changes in the configuration may be made, and the configuration is stored in a data base. Therefore, the Reed patent as combined with Kondo clearly meets all of the claim limitations and one of ordinary skill in the art would have been led to combine the references as previously discussed above.

Regarding claims 2-11, no new arguments have been presented and the claims remain rejected based on their dependency on independent claim 1 and the grounds of rejection as previously presented in the Final Office Action.

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